

REMARKS

In the Office Action the Examiner noted that claims 1-11 were pending in the application. The Examiner rejected claims 1-4, 9 and 11, while objecting to claims 5-8 and 10. By this Amendment, various claims have been amended to clarify the claimed features. The Examiner's rejections are traversed below.

CLAIM OBJECTIONS

In item 5 on page 2 of the Office Action, the Examiner objected to claims 5-8 and 10 as being dependent upon a rejected base claims but indicated that these claims would be allowable if rewritten in independent form. For the reasons indicated below, it is believed that the independent claims from which claims 5-8 and 10 depend, patentably distinguish over the prior art. Therefore, it is submitted that these claims should be in condition for allowance.

REJECTION OF CLAIM 11

In item 7 on pages 3-5 of the Office Action, the Examiner rejected claim 11 under 35 USC § 103 as unpatentable over U.S. Patent 6,842,604 to Cook in view of U.S. Patent Publication 2004/0093418 to Tuomi.

The Cook patent is directed to an internet-enabled means of distributing entertainment content having embedded advertising. The programming of the content is customized according to a consumer's preferences, and advertisements are customized based on the consumer's demographics. Additionally, Cook discusses a means for comparing the scheduled digital content with an end user's digital library, and a means for identifying content listed on the schedule but missing from the user's digital library. A distributor provides this missing content to the user and operates every time a user logs on to a website using a computer (see Cook, abstract and column 4, lines 33-51).

In the Amendment filed in response to the prior Office Action, it was urged that Cook did not teach or suggest "receiving a determined order of the plurality of the user terminals to receive information assigned at each index for delivering the updated information data when the received information updated" as set forth in claim 11. It was urged that Cook does not discuss a determined order of the plurality of user terminals to receive information... when the received information is updated. It was further urged that Cook merely discusses a distributor sending

content and ads via the internet to a user's computer when the content is on a user's schedule but not yet stored on their computer.

In the Office Action, the Examiner takes the position that the above quoted features from claims 11 are taught by column 4, lines 33-51 of Cook. However, this portion of Cook states:

“As part of the invention, in a preferred embodiment, means for comparing the schedule of digital content with an end user's digital library, and means for identifying digital content listed on the schedule but missing from the end user's digital library, and means for communicating with said master digital library to obtain the digital content missing from the end user's digital library can be implemented as shown in FIG. 5 through a software agent called a distributor (78) that operates every time the consumer logs onto the website (48) using a personal computer (86). Distributors comprise at least one agent adapted to perform distribution of digital content. Distributors also comprise at least one agent to request schedules of digital content. The distributor can effect schedule distribution (79) by identifying schedules ordered (80) by the consumer and delivers (34) the schedules (32) via the Internet (84) to the consumer's personal computer (86). If the schedules (32) were already installed on the consumer's personal computer (86), the distributor updates them (96).”

Cook does not teach or suggest “receiving a determined order of the plurality of the user terminals to receive information assigned at each index for delivering the updated information date when the received information is updated.”

In addition, the Tuomi reference was cited by the Examiner on the basis that it discloses “a system and method of update of subscriber profiles in a communication system comprising a plurality of second user terminals for delivering updated information data according to profile data” (see page 4 of Office Action), and not with respect to the above-quoted portion of claim 11. Therefore, it is submitted that neither Cook nor Tuomi teaches or suggests the method of claim 11 which includes:

“receiving a determined order of the plurality of the user terminals to receive information assigned at each index for delivering the updated information data when the received information is updated.”

Therefore, it is submitted that claim 11 patentably distinguishes over the relied upon art.

THE OTHER REJECTIONS UNDER 35 USC § 103

In item 8 on pages 6-14 of the Office Action, the Examiner rejected Claim 1 as unpatentable over U.S. Patent Publication 2002/0087649 to Horvitz in view of U.S. Patent 6,212,548 to DeSimone and in further view of U.S. Patent 7,203,760 to Shimada and in further view of Tuomi. However, the detailed rejection also makes extensive reference to the Cook patent (e.g., see pages 9-11 of the Office Action). In item 9 on pages 14 and 15 of the Office Action, the Examiner rejected claims 2 and 4 as unpatentable over Horvitz in view of DeSimone in further view of Shimada in further view of Tuomi and in further view of U.S. Patent Publication 2004/0180669 to Kall. In item 10 on pages 16 and 17 of the Office Action, the Examiner rejected claim 3 as unpatentable over Horvitz in view of DeSimone in further view of Shimada in further view of Tuomi and in further view of U.S. Patent Publication 2002/0029291 to Crandall. In item 11 on pages 17-23 of the Office Action, the Examiner rejected claim 9 as unpatentable over U.S. Patent 7,158,805 to Park in view of U.S. Patent 6,631,522 to Erdelyi in further view of Shimada and in further view of Tuomi.

The above rejections are respectfully traversed below. Because of the Office Action's failure to properly explain the rejection of claim 1, the complete rejection intended to be set forth in the Office Action is deficient and unclear to the applicants. As a result applicants are at a disadvantage in effectively responding to the outstanding rejection. As explained above, while Cook is not identified as part of the rejection of claim 1 in item 8 of the Office Action, extensive discussion of Cook is provided on pages 9, 10 and 11 of the Office Action in reference to claim 1. Therefore, because the basis of rejection has not been adequately articulated, there has been a failure to provide adequate notice which improperly shifts the burden to the applicants. Applicants request that the finality of the Office Action be withdrawn and that a new non-final Action setting forth rejections which properly establish a prima facie case be issued so that applicants can effectively reply to the rejections.

Despite the above, in the interest of furthering prosecution, applicants herein attempt to respond to the outstanding rejections to the extent possible.

CLAIM 1

In the first paragraph on page 9 of the Office Action, the Examiner states:

“However, Horvitz, as modified by DeSimone et al. and Shimada, does not explicitly teach a means for determining an order of delivering the updated information data to the plurality of the second user terminals to the profile data acquired by reference to the second group of data in said storage unit when the first information data is updated.”

On page 9 of the Office Action, the Examiner takes the position that:

“Cook et al. discloses a personal digital content system wherein a distributor updates an end user’s digital library identifying information, comprising a list of accurate consumer data that is transferred from a host computer to a personal computer. This reads on the claimed means for determining an order of delivering the updated information data to the plurality of the second user terminals to the profile data acquired by reference to the second group of data in said storage unit when the first information data is updated.”

The Office Action then goes on to quote from Cook at column 3, line 49 to column 5, line 3 of Cook.

Claim 1 has been amended to clarify the features of the apparatus of claim 1. As amended, claim 1 recites that the first group of data includes a combination of first identification data, first index data corresponding to the first identification data, and second index data assigned to a second user terminal to which first information data associated with the first identification data is delivered. In addition, the means for determining set forth in the last paragraph, the claim has been amended to recite means for determining an order of the plurality of the second user terminals for delivering the updated information data according to the profile data acquired by reference to the second group of data in the storage unit when the first information data is updated. The updated first information data is delivered according to the order. These features are not taught or suggested by any of the relied upon art.

As described above, the Examiner acknowledges that Horvitz, DeSimone et al and Shimada do not teach or suggest the claimed feature of the “means for delivering”. In addition, Cook et al describes a distribution of information in which a distributor retrieves required tracks and ads from a master digital library 2 and delivers them via the internet to an end user digital library 120 on the consumer’s personal computer 86 (see column 4, lines 58-62). This operation discusses that “tracks and ads” are delivered to a single consumer’s personal computer 86.

Therefore, Cook does not teach or suggest determining “an order of the plurality of the second user terminals for delivering the updated information data” as set forth in claim 1.

It is further submitted that the above-described feature is not taught or suggested by Tuomi. In particular, as described above with respect to claim 11, the Examiner has relied upon Tuomi as disclosing “a system and method of update of subscriber profiles in a communication system comprising a plurality of second user terminals for delivering updated information data according to profile data.”(see page 12 of the Office Action)

It is submitted that none of the relied upon art teaches or suggests the apparatus of claim 1 which includes:

“means for determining an order of the plurality of the second user terminals for delivering the updated information data according to the profile data acquired by reference to the second group of data in said storage unit when the first information data is updated, the updated first information data being delivered according to the order.”

Therefore, it is submitted that claim 1 patentably distinguishes over the relied upon art.

CLAIM 9

Claim 9 as amended is directed to a method of information delivery which includes:

“determining an order of a plurality of the user terminals to receive information assigned at each index for delivering the updated information when the information is updated, the updated information being delivered according to the order.”

On page 20 of the Office Action, the Examiner acknowledges that Park et al and Erdelyi fail to disclose “a method of determining the order in which video clips are retrieved.” However, the Examiner takes the position that Shimada “discloses a system for distributing content data according to user-set content distribution schedules wherein a delivery order is determined.”

However, Shimada does not discuss “determining an order of a plurality of the user terminals to receive information assigned at each index for delivering the updated information when the information is updated, the updated information being delivered according to the order.” Shimada merely notes that servers determine an order of providing downloadable content to users. The order for delivering the updated information in Shimada et al is not received when the information is updated as set forth in claim 9. Further, it is not suggested in the Office Action that this feature is taught or suggested by Tuomi.

In summary, it is submitted that none of the relied upon art teach or suggest the method of claim 9 which includes:

“determining an order of a plurality of the user terminals to receive information assigned at each index for delivering the updated information when the information is updated, the updated information being delivered according to the order.”

Therefore, it is submitted that claim 9 patentably distinguishes over the relied upon art.

CLAIMS 2-4

Claims 2-4 depend, directly or indirectly, from claim 1 and include all the features of that claim plus additional features which are not or suggested by the relied upon art. Therefore, it is submitted that these claims patentably distinguish over the relied upon art.

ENTRY OF THIS AMENDMENT

For the reasons set forth above, it is submitted that the Office Action is deficient. This deficiency was pointed out in the Amendment filed in response to the last Office Action but was not addressed in the current Final Office Action. Therefore, it is again requested that the Office Action be corrected and that a new non-final Office Action be issued taking in to account the comments set forth above.

SUMMARY

It is submitted that none of the references, either taken alone or in combination, teach the present claimed invention. Thus, claims 1-11 are deemed to be in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

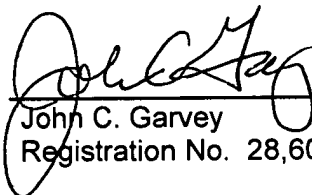
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 10-8-10

By: 
John C. Garvey
Registration No. 28,607

1201 New York Avenue, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501